

(b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's specification set forth in the recipient's solicitation.

Subpart C—Post-Delivery Audits

§ 663.31 Post-delivery audit requirements.

A recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit under this part is complete before title to the rolling stock is transferred to the recipient.

§ 663.33 Description of post-delivery audit.

A post-delivery audit under this part includes—

(a) A post-delivery Buy America certification as described in § 663.35 of this part;

(b) A post-delivery purchaser's requirements certification as described in § 663.37 of this part; and

(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in § 663.41 or § 663.43 of this part.

§ 663.35 Post-delivery Buy America certification.

For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—

(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists—

(1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and

(2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.

§ 663.37 Post-delivery purchaser's requirements certification.

For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—

(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall—

(1) Provide accurate records of all vehicle construction activities; and

(2) Address how the construction and operation of the vehicles fulfills the contract specifications.

(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.

(c) For procurements of ten or fewer buses, or any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.

§ 663.39 Post-delivery audit review.

(a) If a recipient cannot complete a post-delivery audit because the recipient or its agent cannot certify Buy America compliance or that the rolling stock meets the purchaser's requirements specified in the contract, the rolling stock may be rejected and final acceptance by the recipient will not be required. The recipient may exercise any legal rights it has under the contract or at law.

(b) This provision does not preclude the recipient and manufacturer from agreeing to a conditional acceptance of rolling stock pending manufacturer's correction of deviations within a reasonable period of time.